

CWP-27612 & 25054-2013  
CWP-24202-2014  
CWP-6417 & 10684-2015

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

(i) CWP-27612-2013 (O&M)  
Date of decision : 07.02.2018

Sonika  
...Petitioner(s)  
  
Versus  
  
State of Punjab and others  
...Respondent(s)

(ii) CWP-25054-2013 (O&M)  
Date of decision : 07.02.2018

Vandna Aggarwal  
...Petitioner(s)  
  
Versus  
  
State of Punjab and others  
...Respondent(s)

(iii) CWP-24202-2014 (O&M)  
Date of decision : 07.02.2018

Gurmeet Kaur  
...Petitioner(s)  
  
Versus  
  
State of Punjab and others  
...Respondent(s)

(iv) CWP-6417-2015 (O&M)  
Date of decision : 07.02.2018

Supreet  
...Petitioner(s)  
  
Versus  
  
State of Punjab and others

CWP-27612 & 25054-2013  
CWP-24202-2014  
CWP-6417 & 10684-2015

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...Respondent(s)

(v) CWP-10684-2015(O&M)  
Date of decision : 07.02.2018

Geeta Marwaha

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN**

Present: Mr. Varun Dhawan, Advocate,  
for Mr. K.R. Dhawan, Advocate for the petitioner(s)  
in CWP-27612-2013.

Mr. Kapil Kakkar, Advocate for the petitioner(s)  
in CWP Nos.25054 of 2013 & 10684-2015.

Mr. L.S. Sidhu, Advocate for the petitioner(s)  
in CWP-24202-2014.

Mr. Angel Sharma, Advocate for the petitioner(s)  
in CWP-6417-2015.

Ms. Sudeepti Sharma, Addl.A.G., Punjab.

Mr. R.K. Arora, Advocate,  
for respondent No.5 in CWP-27612-2013.

Mr. A.S. Khinda, Advocate,  
for respondent No.6 in CWP-27612-2013.

**JITENDRA CHAUHAN, J.**

By way of this common judgment, five writ petitions, captioned  
above, are being disposed of having filed with a similar prayer.

The petitioners seek direction to the official respondents to  
select them as Teaching Fellow(s) against the post of ETT Teacher in

District Moga. The solitary contention of the petitioners is that they being higher in merit viz.a.viz. private respondents, are entitled to selection in question.

On the other hand, learned State counsel has opposed the claim of the petitioners on different grounds. It is averred that the petitioner(s) in CWP-10684-2015 (Geeta Marwaha), CWP-27612-2013 (Sonika) and 24202-2014 (Gurmeet Kaur) had earlier filed CWP-1331-2012, CWP-9182-2012 and CWP-1982-2011, which were disposed of on 24.01.2012, 16.05.2012 and 24.02.2012, respectively, with the direction to the official respondents to treat the writ petitions as representations and decide the same by passing speaking orders within four months. In compliance thereof, the respondent-Department rejected their respective representations by passing speaking orders. The petitioners have not laid challenge to said rejection orders and instead, preferred the instant writ petitions. As far as petitioner in CWP-6417-2015 is concerned, petitioner-Supreet has sought selection in pursuance to the advertisement issued in September, 2007.

Heard.

The dispute pertains to advertisement dated 05.09.2007, inviting applications from eligible candidates for selection to the post of ETT Teachers (Teaching Fellows). The vacancies were advertised district-wise. In total, 9998 vacancies were advertised, whereas, 724 vacancies were meant for District Moga. Furthermore, clause No.5 of the advertisement provided for grant of five extra marks to the candidates who had cleared their middle and matriculation examination from the schools

situated in the rural areas. This provision was challenged by way of various petitions, one being CWP-1140-2009, preferred by respondent No.5 herein, titled as ***Kirandeep Kaur Vs. State of Punjab and others***. During the pendency of the said writ petitions, the respondents supplied information regarding number of posts advertised, number of applications received, number of candidates who were issued appointment letters, number of persons who had joined as on 31.01.2010, number of posts lying vacant, total number of petitioners pertaining to Teaching Fellows and number of petitioners who fell in the merit after deducting additional 5 marks. The names of the private respondents were found mentioned in the said list.

Ultimately, a Division Bench of this Court passed following order in CWP-6801-2008 and connected matters on 23.02.2010:-

*“Accordingly, Director Public Instructions (E.E.), Punjab is directed to absorb such petitioners falling within column Nos.13 and 14 of the respective tables, within a period of six weeks from today, at the first instance. It will be open to the State of Punjab to issue all instructions thereafter.”*

In compliance thereof, appointment was offered to respondent No.5 in CWP-27612-2013 and others whose names figured in column Nos.13 and 14 of the respective tables in the year 2010. Respondent No.5 joined on 20.12.2010 and thereafter, her services were regularized vide order dated 23.05.2011.

Thus, it is apparent that respondent No.5 in CWP-27612-2013

and others were vigilant of their rights. They approached the Court promptly and were granted relief accordingly, whereas the petitioners chose to sleep over the matter and displayed acquiesce, therefore, the claim of the petitioners herein is barred by delay and laches. The advertisement in question was issued in the year 2007 and the selection process was concluded in the year 2010. Furthermore, the claim of the petitioners in CWP-10684-2015, CWP-27612-2013 and CWP-24202-2014, stood already rejected by way of speaking orders passed on the directions of this Court in the year 2013. Strangely, they have not chosen to challenge the same in the instant petitions. In CWP-25054-2013 and CWP-6417-2015, the petitioners have sought selection for the first time after a lapse of a substantial period.

In ***Chairman, U.P. Jal Nigam Vs. Jaswant Singh, 2007 AIR (SC) 924***, Hon'ble the Supreme Court has held as under:-

*“13. In view of the statement of law as summarised above, the respondents are guilty since the respondents has acquiesced in accepting the retirement and did not challenge the same in time. If they would have been vigilant enough, they could have filed writ petitions as others did in the matter. Therefore, whenever it appears that the claimants lost time or while away and did not rise to the occasion in time for filing the writ petitions, then in such cases, the Court should be very slow in granting the relief to the incumbent. Secondly, it has also to be taken into consideration that*

*the question of acquiescence or waiver on the part of the incumbent whether other parties are going to be prejudiced if the relief is granted. In the present case, if the respondents would have challenged their retirement being violative of the provisions of the Act, perhaps the Nigam could have taken appropriate steps to raise funds so as to meet the liability but by not asserting their rights the respondents have allowed time to pass and after a lapse of couple of years, they have filed writ petitions claiming the benefit for two years. That will definitely require the Nigam to raise funds which is going to have serious financial repercussion on the financial management of the Nigam. Why the Court should come to the rescue of such persons when they themselves are guilty of waiver and acquiescence.”*

**In *New Delhi Municipal Council Vs. Pan Singh and others*, 2007(2) SCT 601**, Hon'ble apex Court has laid down thus:-

*“16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves*

*as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the Court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction.”*

In view of the above discussion, this Court is of the considered opinion that the instant petitions are devoid of any merit and the same are, hereby, dismissed.

**07.02.2018**  
**atulsethi**

**(JITENDRA CHAUHAN)**  
**JUDGE**

|                               |     |    |
|-------------------------------|-----|----|
| Whether speaking / reasoned : | Yes | No |
| Whether Reportable :          | Yes | No |